

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

93 Cr. 180 (LAK)

- v. -

DECLARATION

NIDAL AYYAD,
Defendant.

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PETER J. TOMAO, declares the following to be true under penalty of perjury pursuant to 28 U.S.C. §1746:

1. Declarant makes this declaration in support of defendant-appellant's motion to correct the judgment dated November 9, 2020, to conform with the decision of the United States Court of Appeals for the Second Circuit in this case in *United States v. Salameh*, 261 F.3d 271, 277 (2d Cir. 2001).
2. Declarant is appointed pursuant to the Criminal Justice Act to represent Mr. Ayyad on appeal on May 24, 2021 in Docket # 20-3832 appealing the Court's order dated August 24, 2020 denying his request for *de novo* sentencing.
3. On November 9, 2020, the Court entered the Second Amended Judgment reinstating the judgment previously entered by Judge Duffy on Counts 1, 2, 3, 4, 5, 6, 8 and 9, which repeated the schedule of payments on page 8 requiring lump sum payment of \$250,250,400.00 (\$ 250,000 fine \$ 250,000,000 restitution and \$400 special assessment) immediately.
4. In *United States v. Salameh*, 261 F.3d at 277, the Second Circuit accepted a stipulation of the parties, including Mr. Ayyad, that the written judgment did not conform with Judge Duffy's oral pronouncements that the entire amount of both the fines and the restitution should be made contingent upon the realization of future earnings from media contracts and that, in the absence of

such earnings, defendants will not be required to pay any fines or restitution, even though they may have minor earnings from other sources such as prison wages and modified the judgments so that each defendant's fine and restitution obligations come due only if he receives income from the sale of his account of the World Trade Center bombing or of the events leading up to it.

5. We respectfully request that the Court correct page 8 of the judgment to reflect that the balance due "in accordance with ... F below" and insert in paragraph F the follow instructions:

The defendant's fine and restitution obligations come due only if he receives income from the sale of his account of the World Trade Center bombing or of the events leading up to it. In the absence of such earnings, defendants will not be required to pay any fines or restitution, even though they may have minor earnings from other sources such as prison wages.

6. This motion is timely because the Mandate issued on June 17, 2021, dismissing Mr. Ayyad's appeal of the Second Amended Judgment, restored the Court's jurisdiction as of that date.

7. Assistant United States Attorney Ryan B. Finkel advised me that the government does not object to this request.

Dated: Garden City, New York
June 28, 2021

s/ *PETER J. TOMAO*

PETER J. TOMAO, ESQ.